



Paper No. 17

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AUG 16 2000

SPECIAL PROGRAMS OFFICE  
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In re Application of  
Zanco  
Application No. 09/172,830  
Filed: October 15, 1998  
Attorney Docket No. 2348-348

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2000, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office Action mailed July 30, 1999, set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 31, 1999.

This petition is **GRANTED**.

Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in 37 C.F.R. §1.17(m);

- (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional". The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

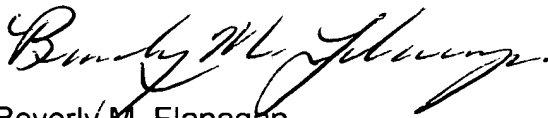
As to Item (3), the statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 37 C.F.R. §1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

All requirements for the filing of a grantable petition under 37 C.F.R. §1.137(b) have been met. Therefore, this petition is **GRANTED**.

This file is being forwarded to Technology Center 3700 for review of the amendment accompanying this petition.

The required petition fee of one thousand two hundred ten dollars (\$1,210.00) will be charged to Deposit Account #50-0800 as per your authorization of July 5, 2000.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Nelson B. Snyder III at (703) 305-0011.

  
Beverly M. Flanagan  
Supervisory Petitions Examiner  
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Office of the Deputy Assistant Commissioner  
for Patent Examination Policy